## IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NORTH DAKOTA

Brothers Emergency Services, LLC, and Travelers Casualty and Surety Company of America,  Defendants,  Defendants,  Travelers Casualty and Surety Company of America,  Cross-Claimant and Third-Party Plaintiff,  Byrd Brothers, Inc., Claude R. Byrd, James K. Byrd, and Donna R. Byrd,	United States of America for the use	)
Plaintiff,  vs.  Persons Service Company, LLC, Byrd Brothers Emergency Services, LLC, and Travelers Casualty and Surety Company of America,  Defendants,  Travelers Casualty and Surety Company of America,  Defendants,  Case No. 4-12-cv-153   Cross-Claimant and Third-Party Plaintiff,  Byrd Brothers, Inc., Claude R. Byrd, James K. Byrd, and Donna R. Byrd,		
Plaintiff,  Vs.  Persons Service Company, LLC, Byrd  Brothers Emergency Services, LLC, and  Travelers Casualty and Surety Company of America,  Defendants,  Travelers Casualty and Surety Company of America,  Oross-Claimant and Third-Party Plaintiff,  Byrd Brothers, Inc., Claude R. Byrd, James  K. Byrd, and Donna R. Byrd,  Oross-Claimant and Donna R. Byrd,  Oross-Claimant America,  Oross-Claiman	Davis Contracting Company,	,
Vs.  Persons Service Company, LLC, Byrd Brothers Emergency Services, LLC, and Travelers Casualty and Surety Company of America,  Defendants,  Travelers Casualty and Surety Company of America,  Oross-Claimant and Third-Party Plaintiff,  Byrd Brothers, Inc., Claude R. Byrd, James K. Byrd, and Donna R. Byrd,  Oross-Claimant and Donna R. Byrd,  Oross-Claimant R. Byrd,		) AND RECOMMENDATION
Persons Service Company, LLC, Byrd Brothers Emergency Services, LLC, and Travelers Casualty and Surety Company of America,  Defendants,  Defendants,  Travelers Casualty and Surety Company of America,  Cross-Claimant and Third-Party Plaintiff,  Byrd Brothers, Inc., Claude R. Byrd, James K. Byrd, and Donna R. Byrd,	Plaintiff,	)
Persons Service Company, LLC, Byrd Brothers Emergency Services, LLC, and Travelers Casualty and Surety Company of America,  Defendants,  Defendants,  Travelers Casualty and Surety Company of America,  Cross-Claimant and Third-Party Plaintiff,  Byrd Brothers, Inc., Claude R. Byrd, James K. Byrd, and Donna R. Byrd,		)
Brothers Emergency Services, LLC, and Travelers Casualty and Surety Company of America,  Defendants,  Defendants,  Travelers Casualty and Surety Company of America,  Cross-Claimant and Third-Party Plaintiff,  Byrd Brothers, Inc., Claude R. Byrd, James K. Byrd, and Donna R. Byrd,	VS.	)
Brothers Emergency Services, LLC, and Travelers Casualty and Surety Company of America,  Defendants,  Defendants,  Travelers Casualty and Surety Company of America,  Cross-Claimant and Third-Party Plaintiff,  Byrd Brothers, Inc., Claude R. Byrd, James K. Byrd, and Donna R. Byrd,		)
Travelers Casualty and Surety Company of America,  Defendants,  Defendants,  Travelers Casualty and Surety Company of America,  Cross-Claimant and Third-Party Plaintiff,  Byrd Brothers, Inc., Claude R. Byrd, James K. Byrd, and Donna R. Byrd,	Persons Service Company, LLC, Byrd	)
Travelers Casualty and Surety Company of America,  Defendants,  Defendants,  Travelers Casualty and Surety Company of America,  Case No. 4-12-cv-153   Case No. 4-12-cv-153   Cross-Claimant and Surety Company  Of America,  Defendants,  Defe	Brothers Emergency Services, LLC, and	
of America,  Defendants,  Defendants,  Travelers Casualty and Surety Company of America,  Cross-Claimant and Third-Party Plaintiff,  Byrd Brothers, Inc., Claude R. Byrd, James  K. Byrd, and Donna R. Byrd,  )  Case No. 4-12-cv-153		)
Defendants, ) Travelers Casualty and Surety Company of America, ) Cross-Claimant and Third-Party Plaintiff, ) Byrd Brothers, Inc., Claude R. Byrd, James K. Byrd, and Donna R. Byrd, )		) Case No. 4-12-cy-153
Travelers Casualty and Surety Company of America, ) Cross-Claimant and Third-Party Plaintiff, ) Byrd Brothers, Inc., Claude R. Byrd, James K. Byrd, and Donna R. Byrd, )	·,	)
Travelers Casualty and Surety Company of America, ) Cross-Claimant and Third-Party Plaintiff, ) Byrd Brothers, Inc., Claude R. Byrd, James K. Byrd, and Donna R. Byrd, )	Defendants	)
of America, ) Cross-Claimant and Third-Party Plaintiff, ) Byrd Brothers, Inc., Claude R. Byrd, James ) K. Byrd, and Donna R. Byrd, )	Determine,	)
of America, ) Cross-Claimant and Third-Party Plaintiff, ) Byrd Brothers, Inc., Claude R. Byrd, James ) K. Byrd, and Donna R. Byrd, )	Travelers Casualty and Surety Company	)
Cross-Claimant and Third-Party Plaintiff, ) Byrd Brothers, Inc., Claude R. Byrd, James ) K. Byrd, and Donna R. Byrd, )		)
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Byrd Brothers, Inc., Claude R. Byrd, James ) K. Byrd, and Donna R. Byrd, )	Cross-Claimant and Third-Party Plaintiff	)
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K. Byrd, and Donna R. Byrd,	Byrd Brothers Inc. Claude R. Byrd James	)
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Third Dorty Defendants	K. Byrd, and Donna K. Byrd,	)
	Third-Party Defendants.	)
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Corner Deformation	C D - C 1 4	)
Cross-Defendant )	Cross-Defendant	)

Before the Court is Cross-Claimant and Third-Party Plaintiff Travelers Casualty and Surety Company of America's ("Travelers") Motion for Default Judgment filed on August 7, 2017. See Docket No. 80. In the motion, Travelers seeks a default judgment against Cross-Defendant Byrd Brother Emergency Services, LLC ("BBES") and Third-Party Defendants Byrd Brothers, Inc., ("BBI"), Claude R. Byrd, James, K. Byrd, and Donna R. Byrd ("collectively the Byrds"), jointly and severally, in the amount of \$727,767.85.

On November 17, 2017, Magistrate Judge Charles S. Miller, Jr. issued a Report and

Recommendation wherein he recommended granting in part and denying in part Travelers' motion.

See Docket No. 81. The parties were given fourteen (14) days to file any objections to the Report

and Recommendation. No objections were filed.

The Court has carefully reviewed the Report and Recommendation, the relevant case law,

and the entire record, and finds the Report and Recommendation to be persuasive. The Court agrees

with Judge Miller that Travelers is entitled to entry of a default judgment but that additional

information is needed regarding the amount of the judgment. Accordingly, the Court ADOPTS the

Report and Recommendation (Docket No. 81) in its entirety. Travelers' motion (Docket No. 80) is

GRANTED IN PART to the extent it seeks a default judgment and DENIED IN PART to the

extent it seeks the currently requested \$727,767.85. Travelers will have thirty (30) days from the

date of this order to supplement the record with additional information pertaining to the purposes

of the payments made and to demonstrate to Court that the amounts requested are collectable under

whichever state law is to apply to this action.

IT IS SO ORDERED.

Dated this 5th day of December, 2017.

/s/ Daniel L. Hovland

Daniel L. Hovland, Chief Judge

**United States District Court** 

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